



Senate

General Assembly

File No. 49

February Session, 2014

Substitute Senate Bill No. 56

Senate, March 19, 2014

The Committee on Labor and Public Employees reported through SEN. HOLDER-WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING SEVERE MENTAL OR EMOTIONAL
IMPAIRMENT AND WORKERS' COMPENSATION COVERAGE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (16) of section 31-275 of the 2014 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective October 1, 2014*):

4 (16) (A) "Personal injury" or "injury" includes, in addition to
5 accidental injury that may be definitely located as to the time when
6 and the place where the accident occurred, an injury to an employee
7 that is causally connected with the employee's employment and is the
8 direct result of repetitive trauma or repetitive acts incident to such
9 employment, and occupational disease.

10 (B) "Personal injury" or "injury" shall not be construed to include:

11 (i) An injury to an employee that results from the employee's
12 voluntary participation in any activity the major purpose of which is

13 social or recreational, including, but not limited to, athletic events,
14 parties and picnics, whether or not the employer pays some or all of
15 the cost of such activity;

16 (ii) A mental or emotional impairment, unless such impairment (I)
17 arises from a physical injury or occupational disease, (II) in the case of
18 a police officer, arises from such police officer's use of deadly force or
19 subjection to deadly force in the line of duty, regardless of whether
20 such police officer is physically injured, provided such police officer is
21 the subject of an attempt by another person to cause such police officer
22 serious physical injury or death through the use of deadly force, and
23 such police officer reasonably believes such police officer to be the
24 subject of such an attempt, [or] (III) in the case of a firefighter, is
25 diagnosed as post-traumatic stress disorder by a licensed and board
26 certified mental health professional, determined by such professional
27 to be originating from the firefighter witnessing the death of another
28 firefighter while engaged in the line of duty and not subject to any
29 other exclusion in this section, or (IV) in the case of any employee, is
30 diagnosed by a psychiatrist licensed pursuant to chapter 370 or a
31 psychologist licensed pursuant to chapter 383, determined by such
32 psychiatrist or psychologist to be originating from the employee
33 visually witnessing the death or maiming, or visually witnessing the
34 immediate aftermath of such death or maiming, of one or more human
35 beings, whose death or maiming was intentionally caused by an act of
36 another human being, and which is not the result of some natural
37 cause; provided the visual witnessing of such death or maiming, or the
38 visual witnessing of the aftermath of such death or maiming, was
39 causally connected with the employee's employment. As used in this
40 clause, "police officer" means a member of the Division of State Police
41 within the Department of Emergency Services and Public Protection,
42 an organized local police department or a municipal constabulary,
43 "firefighter" means a uniformed member of a municipal paid or
44 volunteer fire department, [and] "in the line of duty" means any action
45 that a police officer or firefighter is obligated or authorized by law,
46 rule, regulation or written condition of employment service to
47 perform, or for which the police officer or firefighter is compensated

48 by the public entity such officer serves, "maiming" means the loss of
 49 any member or organ, and "immediate aftermath" means the scene at
 50 which such death or maiming occurred for a period of time not to
 51 exceed six hours after such scene is secured by law enforcement
 52 officers;

53 (iii) A mental or emotional impairment that results from a personnel
 54 action, including, but not limited to, a transfer, promotion, demotion
 55 or termination; or

56 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
 57 subdivision, "personal injury" or "injury" includes injuries to
 58 employees of local or regional boards of education resulting from
 59 participation in a school-sponsored activity but does not include any
 60 injury incurred while going to or from such activity. As used in this
 61 clause, "school-sponsored activity" means any activity sponsored,
 62 recognized or authorized by a board of education and includes
 63 activities conducted on or off school property and "participation"
 64 means acting as a chaperone, advisor, supervisor or instructor at the
 65 request of an administrator with supervisory authority over the
 66 employee.

67 Sec. 2. Section 31-294h of the general statutes is repealed. (*Effective*
 68 *from passage*)

| | | |
|---|-----------------|------------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2014 | 31-275(16) |
| Sec. 2 | from passage | Repealer section |

LAB Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 15 \$ | FY 16 \$ |
|------------------------|--------------------|-----------------|-----------------|
| Various State Agencies | GF, TF - Cost | Indeterminate | Indeterminate |

Municipal Impact:

| Municipalities | Effect | FY 15 \$ | FY 16 \$ |
|-----------------------|----------------------------|-----------------|-----------------|
| All Municipalities | STATE MANDATE - Cost | Indeterminate | Indeterminate |

Explanation

Section 1 of the bill will result in a cost to the State's workers' compensation program¹ for employees with a compensable mental-mental injury (a mental injury without an accompanying physical injury) under the bill's expanded definition of personal injury. The cost depends on two factors: 1) number of claims filed (frequency) and 2) the severity of the claim, which are both unknown and highly variable. The average cost per case of a mental-mental injury resulting in absence from work can range from \$20,000 to \$150,000.² By way of example, a basic claim for the state with lost wage (TTD), permanent partial disability (PPD) and cost of medical services is estimated to be approximately \$88,000 over the life of the claim.³

¹ The State's workers' compensation program is self-insured and therefore is responsible for the total cost of claims incurred as opposed to a fully insured policy where the state would pay a set annual premium.

² Source: NCCI (National Council on Compensation Insurance). These figures are based on data reported from fully insured entities.

³ The estimate is based on 1) first year temporary total disability (TTD) cost of \$21,000(\$13,000 in lost wages and \$8,000 medical (\$100-\$300 per visit for

Frequency

The number of potential claims is indeterminate. The State's workers' compensation program currently covers approximately 74,711 employees.⁴ While the bill provides coverage to all state employees, the frequency with which an employee may be subject to the conditions in the bill, either as a singular event or repetitive exposure to events, is likely going to be the highest in the state's first responders (e.g. state troopers). By way of reference the NP-1 bargaining unit, which is predominately state troopers, has approximately 1,065 members.⁵ In addition, the Department of Corrections has approximately 3,545 correctional officers.⁵ While these are not first responders the nature of their work may expose them to these conditions more frequently. While intentional acts of violence within the workplace are less frequent than incidents first responders may experience, the number of potential claims filed for a single incident is likely going to be higher, as any employee who witnesses the event or immediate aftermath would be eligible. For reference, Connecticut had 11 workplace homicides in 2012.⁶ From 1992 to 2010 there were 13,827 workplace homicides nationwide; 140 were government workers killed by a coworker.⁷

Severity

approximately 2 visits per week)), 2) additional permanent partial disability (PPD) benefit of \$52,000, and 3) \$15,000 in future medical costs. The estimate assumes the average first responder weekly indemnity benefit is approximately \$1,000 and maximum medical improvement of 10%. Medical costs refer only to mental health related out-patient services and exclude any other medical care related to the claim. This assumes the individual is classified as having a PPD. A TTD has no cap on treatment or duration.

⁴ In general, any individual who receives a paycheck from the state is eligible to file a workers' compensation claim and therefore, for the purposes of this bill are considered employees. This figure reflects the total number of individuals who were eligible to receive a paycheck as of March 1, 2014, excluding student workers. (Source: CoreCT)

⁵ Figure as of February 1, 2014.

⁶ Sources: Census of Fatal Occupational Injuries; 2012 Census. Bureau of Labor Statistics, US Department of Labor. (Assessed March 13, 2014).

⁷ Source: Ibid

The severity of the claim is related to the cost associated with providing necessary medical treatment and indemnity benefits. Unlike physical impairments, the diagnosis and treatment duration for emotional impairments is both difficult and highly variable. Emotional impairment as diagnosed by a licensed clinician could range from Generalized Anxiety Disorder (GAD) to Post-Traumatic Stress Disorder (PTSD). The ultimate cost of treatment depends on the clinical diagnosis, duration and scope of treatment.

The indemnity portion of the benefit is determined by two factors: 1) how long the individual is out of work and 2) whether the individual is classified as having a temporary total disability (TTD) or a permanent partial disability (PPD). In the case of an emotional impairment claim, if the individual is determined to have a PPD, the individual's brain is considered impaired. Pursuant to CGS 31-308a PPD involving the brain carries the maximum potential indemnity value.⁸ For severe claims, where the individual is unable to return to regular duties, additional indemnity benefits are available and are equal to the indemnity benefit provided by the PPD. For TTD claims, there is no cap on the treatment or duration. The estimated average weekly indemnity benefit for a first responder is \$1,000.

Lastly, it is important to note that once an injury is identified as a work related injury and covered under the workers' compensation program any subsequent injury or impairment which can be causally linked to the initial injury is also covered by workers' compensation, resulting in a wide range of potential per claim costs.

Emotional impairment, in the form of long term PTSD, has been linked to other physical health issues including but not limited to

⁸ The actual benefit for PPD is a variable percentage of up to 520 weeks of compensation determined by the treating physician and based medical standards. It is unlikely an individual would get the full 520 weeks and be classified as PPD. For example, the physician may indicate the maximum medical improvement is 10%. In this example, the injured worker would be entitled to 52 weeks of PPD benefits.

cardiovascular disease.⁹ In the event an individual receiving workers' compensation coverage for a PTSD or other emotional impairment claim, develops a physical ailment whose etiology is linked to their emotional distress, the state will be liable for the cost of treating the employee's related physical condition. The fiscal impact will depend on the condition and course of treatment.

Municipal Impact

The bill will result in a cost to municipalities as it makes all municipal employees eligible for workers' compensation coverage for mental-mental injuries within the parameters of the bill.

It is not known how many mental-mental claims are filed in a given year by municipal police officers or firefighters. Similar to the state, the cost will depend on 1) number of claims filed and 2) the severity of the claims.

There are approximately 133,986 local government employees in Connecticut.¹⁰

The bill is likely to result in increased premium costs for fully-insured municipalities when the costs are realized in future workers' compensation rates. Costs for self-insured municipalities will be realized when an eligible claim is filed. There are 32 self-insured municipalities and 137 fully insured municipalities for workers' compensation.¹¹

Section 2 of the bill is not anticipated to result in a fiscal impact to the state or municipalities.

⁹ Coughlin, S. *Post-Traumatic Stress Disorder and Cardiovascular Disease*, The Open Cardiovascular Medicine Journal, 2011, 5, 164-170.

¹⁰ It is unclear what percentage of these employees are eligible for workers' compensation benefits. Source: State Department of Labor, Office of Research, as of December 2013.

¹¹ Source: State of Connecticut, Workers' Compensation Commission (as of March 2014).

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to various factors, including, medical inflation, wage growth, incidence, and in the case of fully insured workers' compensation programs, in future premiums.

OLR Bill Analysis**sSB 56*****AN ACT CONCERNING SEVERE MENTAL OR EMOTIONAL IMPAIRMENT AND WORKERS' COMPENSATION COVERAGE.*****SUMMARY:**

This bill expands the definition of “personal injuries” under the workers’ compensation law. Among other things, this allows an employee to qualify for workers’ compensation benefits if:

1. during the course of his or her duties, the employee sees (a) a person’s death or maiming or (b) its immediate aftermath (the scene of the death or maiming within six hours after law enforcement officers secure it);
2. the death or maiming was intentionally caused by another person; and
3. a licensed psychiatrist or psychologist diagnoses the employee with a mental or emotional impairment and determines that it originated from the employee seeing the crime or crime scene described above.

Under the bill, “maiming” is the loss of any body part or organ.

The bill also extends workers’ compensation wage replacement benefits to (1) police officers who suffer a mental or emotional impairment caused by using, or being subjected to, deadly force in the line of duty and (2) firefighters diagnosed with post-traumatic stress disorder caused by witnessing the death of another firefighter in the line of duty. Current law limits workers’ compensation benefits in these instances to treatment by an approved psychologist or psychiatrist.

EFFECTIVE DATE: October 1, 2014, except for the provision extending wage replacement benefits to certain police and firefighters, which is effective upon passage.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 3 (03/04/2014)